

Continued Examination Under 37 CFR 1.114

1. Receipt is acknowledged of a request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e) and a submission, filed on 13 July 2009. The submission, however, is not fully responsive to the prior Office action because the claims are no longer readable on the elected invention. The limitations corresponding to the elected invention (i.e. nonstoichiometric or cosputtered thermoelements) have been deleted from the previously elected claims and the limitation to L/A ratios from about 500-10000 cm^{-1} that has been added to claim 1 corresponds precisely to that presented in nonelected Group II, which was nonelected without traverse, as indicated in the Office Action of 13 April 2009. See MPEP §819 and §821.03.

Accordingly, as no currently presented claims correspond to the previously elected invention (Restriction presented in Office Action of 13 April 2009, and election confirmed in Applicant's response of 13 July 2009), all pending claims 1-3, 5-18, 23-25, and 37-39 currently stand withdrawn from consideration

Since the submission appears to be a *bona fide* attempt to provide a complete reply to the prior Office action, applicant is given a shortened statutory period of ONE MONTH or THIRTY DAYS from the mailing date of this letter, whichever is longer, to submit a complete reply. This shortened statutory period for reply supersedes the time period set in the prior Office action. This time period may be extended pursuant to 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey T. Barton whose telephone number is (571)272-1307. The examiner can normally be reached on M-F 9:00AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam Nguyen can be reached on (571) 272-1342. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeffrey T. Barton/
Primary Examiner, Art Unit 1795
25 September 2009